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The Life of David Dudley Field. By HENRY M. FIELD. (New York: Charles Scribner's Sons. 1898. Pp. 361.)

THIS is a pious work by the Reverend Doctor Field in commemoration of his eldest brother. It seems designed rather as a memorial for the family than as a book for general reading. And its examination from that viewpoint affords a justification for what otherwise might be considered the disproportionate space awarded to the merits of the subject's ancestors, and others of his kindred, which includes even an account of the success of one of his descendants at a school examination. It is written in a kindly spirit and contains not a word which can give pain to any of his enemies. In the dedication to his brother, Mr. Justice Field, the author modestly apologizes for the fact that the task had been assigned to himself, a layman, who cannot fill in the "professional details." Yet a careful search has disclosed but one erroneous statement of the law, which is at pages 202 and 203, where Doctor Field says of the *McCardle* case, in which the constitutionality of one of the Reconstruction acts was argued before the Supreme Court: "Congress itself hastened to repeal the act in which it had assumed an authority which it did not possess." That statute was not repealed; but before the decision, on account of an intimation that it might be held unconstitutional, the act giving the court jurisdiction of the appeal was repealed and *McCardle* pardoned (*Ex parte McCardle*, 7 Wall. 506). But although the book is in spirit and execution praiseworthy if not blameless, it fails to give any adequate idea of the life and character of its protagonist or even of the reforms which he accomplished. A record of the latter, however, has been preserved for posterity in the three volumes of the *Speeches and Papers of David Dudley Field*, published before he died. Of the former it is perhaps too soon to attempt an accurate description.

In stature as well as intellect looking down upon the rest, he was for many years the most conspicuous figure at the New York bar. At an age when most of his contemporaries were dead and the rest too feeble to work, he continued till he was over eighty actively engaged in practice, advising conduct and drafting papers in transactions involving millions of dollars, and arguing the most important cases of the day. His extensive study of the history of pleading and practice, a field which from its dryness is usually neglected by the lawyer, made him unrivalled in fertility of resource; equally acute in defense to harass and delay his adversary by technical objections to the form of procedure and the nature of the relief asked, and ready when for the plaintiff to demand and obtain summary justice by the use of some new remedy invented for the occasion but supported by analogies from obsolete writs of which the opposing counsel and the judge had never previously read or heard. This power, combined with a profound knowledge of human nature, the weaknesses of which he understood, and a devotion to the interests of his clients which ignored fear or hope of favor from other sources, made him the greatest master of the strategy of litigation that the world has ever seen. In lucidity, simplicity, and precision of style as a draughtsman of plead-

ings, instruments, and statutes he was also without a peer. In the accomplishments which attract attention to an advocate in court, he was not so pre-eminent. In the art of cross-examination, he made no such reputation as that of O'Connor, Bangs, Fullerton and Choate. The graces of oratory, also, he did not possess, although he tried to cultivate them. He could not expand and reiterate an argument with varied illustrations. His perorations were often awkward if not turgid. He dominated and at times bullied, but rarely if ever conciliated the bench. It was by logic, clearness of statement and personal force that he won his greatest victories in argument.

The reputation of the lawyer, however, is ephemeral; and had his life been confined to the practice at the bar he would soon have been forgotten. David Dudley Field was spurred by an ambition to acquire something greater than wealth or professional pre-eminence, both of which he easily attained. He wished to leave not only his clients but the world his debtor, and for that he devoted his learning and technical training to the removal of the obstructions to the administration of justice which for centuries had always delayed and too often defeated suitors in England as well as the United States. Alone and unaided he undertook the task. His hand and brain pointed out the way, argued the practicability and expedience of fusing law and equity together, and drew the statutes by which that fusion was accomplished. The work was colossal and its opponents numerous, able and bitter. They comprised almost the entire bar of his own state, who found fault with his phraseology, denied the possibility of what he attempted, and compared "Jack Code" with Jack Cade. But his untiring energy persuaded the people of his own state to outvote the lawyers. And the success of the experiment in New York procured its imitation, with the approval of the bar, in almost every system of jurisprudence founded upon the common law throughout the world. In his later years, he dwelt with just pride upon the fact that he found at the Antipodes, in British China, India, Australia and Ceylon as well as in England, Canada, and more than twenty-seven states of his own country, judges daily enforcing statutes containing language written by him at Stockbridge forty years before.

For this posterity will not forget him. Greater than Bentham, he accomplished and himself framed the principal measures of reform which he preached upon the housetops. Unlike that of Napoleon and Justinian, his work was performed in the face of the most stubborn resistance and practically alone. And so long as Anglo-Saxon jurisprudence is administered his name will be held in grateful remembrance.

ROGER FOSTER.

Cases on American Constitutional Law. Edited by CARL EVANS BOYD, Ph.D. (Chicago: Callaghan and Co. 1898. Pp. xi, 678.)

THIS is a short collection of cases for the use of college and law-school classes. It is based upon the larger and valuable collection edi-